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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

7 BRANDON COOPER,

8 Plaintiff,

9 v.

10 SUE BAUER, *et al.*,

11 Defendants.

No. C09-5777 BHS/KLS

**REPORT AND RECOMMENDATION
NOTED FOR: April 2, 2010**

12 This civil rights action has been referred to the undersigned United States Magistrate
13 Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4.
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15 It has been more than sixty days since the Court's latest mailings to Plaintiff were
16 returned and the Court does not have a current address for the Plaintiff. Therefore, the
17 undersigned recommends that the Court dismiss this action as Plaintiff appears to have
18 abandoned his case.

19 *DISCUSSION*

20 On December 16, 2009, the Plaintiff filed a proposed civil rights complaint, but failed to
21 pay the filing fee of \$350.00 or submit an application to proceed *in forma pauperis*. Dkt. 1. On
22 December 21, 2009, the Clerk sent a letter to Plaintiff directing him to file an application or pay
23 the filing fee on or before January 20, 2010. Dkt. 2. On December 21, 2009, the court received
24 Plaintiff's trust account statement at the Cowlitz County Jail. Dkt. 3. On January 4, 2010, the
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1 Clerk's letter (Dkt. 2) to Plaintiff was returned to the court, marked "Return to Sender Not
2 Deliverable as Addressed, Unable to Forward." Dkt. 4.

3 Plaintiff has not notified the Court of his current address.

4 Local Rule 41(b)(2) states:

5 A party proceeding pro se shall keep the court and opposing parties advised as to
6 his current address. If mail directed to a pro-se plaintiff by the clerk is returned
7 by the post office, and if such plaintiff fails to notify the court and opposing
8 parties within sixty days thereafter of his current address, the court may dismiss
the action without prejudice for failure to prosecute.

9 This action has existed more than sixty days without an address for the Plaintiff.
10 Dismissal without prejudice for failure to prosecute is appropriate. Accordingly, the undersigned
11 recommends **DISMISSAL WITHOUT PREJUDICE** for failure to prosecute pursuant to Local
12 Rule 41(b)(2).

13 *CONCLUSION*

14 The Court should dismiss this action without prejudice as Plaintiff has left no forwarding
15 address and appears to have abandoned the case.

16 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
17 Procedure, the parties shall have fourteen (14) days from service of this Report to file written
18 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
19 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the
20 time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on
21 **April 2, 2010**, as noted in the caption.

22 DATED this 8th day of March, 2010.

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26 Karen L. Strombom
United States Magistrate Judge